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12 **UNITED STATES DISTRICT COURT**  
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 THE ECHO DESIGN GROUP, INC., a New  
15 York Corporation,

16 Plaintiff,

17 v.

18 TEXTILES FROM EUROPE, INC.,  
19 individually and d/b/a "Victoria Classics"  
20 and "VCNY," a New York Corporation;  
21 MACY'S, INC., a Delaware Corporation;  
22 BED BATH & BEYOND, INC., a New York  
23 Corporation; THE BON-TON STORES,  
24 INC., individually and d/b/a "Carson's" a  
25 Pennsylvania Corporation; SEARS  
26 HOLDINGS CORPORATION, individually  
27 and doing business as "K Mart" and "Sears,"  
28 a Delaware Corporation; KOHL'S CORP., a  
Wisconsin Corporation; and DOES 1 through  
10,

Defendants.

Case No.:

**PLAINTIFF'S COMPLAINT FOR  
COPYRIGHT INFRINGEMENT**

Jury Trial Demanded

1 The Echo Design Group, Inc., by and through its undersigned attorneys, hereby  
2 prays to this honorable Court for relief based on the following:

3 **JURISDICTION AND VENUE**

4 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101  
5 *et seq.*

6 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and  
7 1338 (a) and (b).

8 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and  
9 1400(a) in that this is the judicial district in which a substantial part of the acts and  
10 omissions giving rise to the claims occurred.

11 **PARTIES**

12 4. Plaintiff THE ECHO DESIGN GROUP, INC. is a corporation organized  
13 and existing under the laws of the State of New York.

14 5. Plaintiff is informed and believes and thereon alleges that Defendant  
15 TEXTILES FROM EUROPE, INC., individually and doing business as “Victoria  
16 Classics” and “VCNY” (“VCNY”) is a New York corporation with its principal  
17 place of business located at 2170 Highway 27 Edison, New Jersey 08817, and is  
18 doing business in and with the state of California.

19 6. Plaintiff is informed and believes and thereon alleges that Defendant  
20 MACY’S, INC. (“MACYS”) is a Delaware corporation with its principal place of  
21 business located at 7 W. 7th Cincinnati, OH 45202, and is doing business in and with  
22 the state of California.

23 7. Plaintiff is informed and believes and thereon alleges that Defendant BED  
24 BATH & BEYOND, INC. (“BED”) is a New York corporation with its principal  
25 place of business located at 650 Liberty Avenue Union, NJ 07083, and is doing  
26 business in and with the state of California.

1           8. Plaintiff is informed and believes and thereon alleges that Defendant THE  
2     BON-TON STORES, INC. individually and doing business as “Carson’s” (“BON-  
3     TON”) is a Pennsylvania corporation, with its principal place of business located at  
4     2801 E. Market Street, York, PA 17402, and is doing business in and with the state  
5     of California.

6           9. Plaintiff is informed and believes and thereon alleges that Defendant  
7     SEARS HOLDINGS CORPORATION (“SEARS”) individually and doing business  
8     as “K Mart” and “Sears” is a Delaware corporation with its principal place of  
9     business located at 3333 Beverly Road Hoffman Estates, IL 60179, and is doing  
10    business in and with the state of California.

11          10. Plaintiff is informed and believes and thereon alleges that Defendant  
12    KOHL’S CORP. (“KOHLS”) is a Wisconsin corporation with its principal place of  
13    business located at N56 W17000 Ridgewood Drive, Menomonee Falls, WI 53051,  
14    and is doing business in and with the state of California.

15          11. Plaintiff is informed and believes and thereon alleges that Defendants  
16    DOES 1 through 10, inclusive, are other parties not yet identified who have infringed  
17    Plaintiff’s copyrights, have contributed to the infringement of Plaintiff’s copyrights,  
18    or have engaged in one or more of the wrongful practices alleged herein. The true  
19    names, whether corporate, individual or otherwise, of Defendants 1 through 10,  
20    inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants  
21    by such fictitious names, and will seek leave to amend this Complaint to show their  
22    true names and capacities when same have been ascertained.

23          12. Plaintiff is informed and believes and thereon alleges that at all times  
24    relevant hereto each of the Defendants was the agent, affiliate, officer, director,  
25    manager, principal, alter-ego, and/or employee of the remaining Defendants and was  
26    at all times acting within the scope of such agency, affiliation, alter-ego relationship  
27    and/or employment; and actively participated in or subsequently ratified and/or

1 adopted each of the acts or conduct alleged, with full knowledge of all the facts and  
2 circumstances, including, but not limited to, full knowledge of each violation of  
3 Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

4 **CLAIMS RE INFRINGEMENT OF DESIGN 123242**

5 13. Plaintiff owns an original two-dimensional artwork used for purposes of  
6 textile printing entitled "123242" ("Subject Design"), which has been registered with  
7 the United States Copyright Office.

8 14. Prior to the acts complained of herein, Plaintiff widely disseminated  
9 products bearing Subject Design to numerous parties in the fashion, apparel, and  
10 home fabrics industries.

11 15. Plaintiff is informed and believes and thereon alleges that following its  
12 distribution of Subject Design, VCNY, MACY'S, BED, BON-TON, SEARS,  
13 KOHLS, DOE Defendants, and each of them distributed and/or sold fabric and/or  
14 products featuring a design that is substantially similar to Subject Design (hereinafter  
15 "Subject Product") without Plaintiff's authorization, including but not limited to  
16 products sold by

- 17 a. MACY'S under Web ID 2361275 and Item Description "Casablanca  
18 5-Pc. Twin Comforter Set," manufactured by or for VCNY.  
19 b. BED under SKU 44934231 and Item Description "Alessia Reversible  
20 Twin Quilt Set," manufactured by or for VCNY.  
21 c. BED under SKU 45868863 and Item Description "Casablanca 5-  
22 Piece Reversible Full/Queen Comforter Set in Turquoise,"  
23 manufactured by or for VCNY.  
24 d. BON-TON under Product ID 973534 and Item Description "Victoria  
25 Classics Beryl 15-pc. Bath Set," manufactured by or for VCNY.  
26  
27  
28

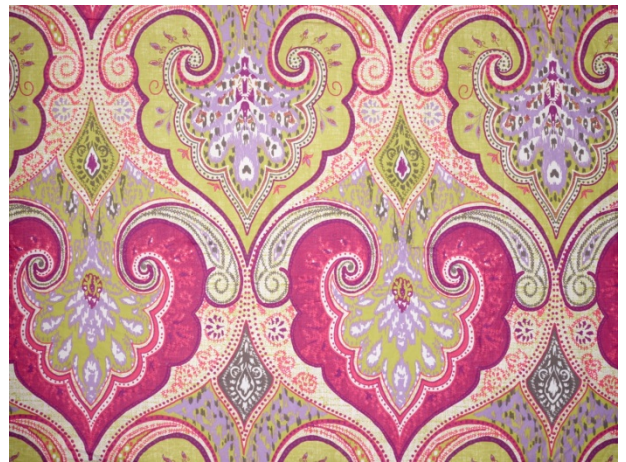
- e. SEARS doing business as “K Mart” under Item No. 048VA85710312P and bearing the Item Description “Victoria Classics Beryl 15PC Bath Set,” manufactured by or for VCNY.
- f. SEARS doing business as “Sears” under Item No. SPM11842435615 and Item Description “VCNY Casablanca Quilt Set – Size: Twin,” manufactured by or for VCNY.
- g. KOHLS under Product No. 2310510 and Item Description “VCNY Casablanca Reversible Comforter Set,” manufactured by or for VCNY.

16. An image of Subject Design and an exemplar of Subject Product are set forth hereinbelow:

**Subject Design**



**Subject Product**



17. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to the Subject Design, including, without limitation, through (a) access to Plaintiff’s showroom and/or design library; (b) access to illegally distributed copies of Subject Designs by third-party vendors and/or DOE Defendants, including without limitation international and/or overseas converters and printing mills; (c) access to Plaintiff’s strike-offs and samples, and (d) access to

1 products in the marketplace manufactured with lawfully printed fabric bearing the  
2 Subject Design.

3 18. Plaintiff is informed and believes and thereon alleges that one or more of  
4 the Defendants manufactures fabric-based products. Plaintiff is further informed and  
5 believes and thereon alleges that said Defendant(s), and each of them, has an  
6 ongoing business relationship with Defendant retailers, and each of them, and  
7 supplied products to said retailers, which products infringed the Subject Design in  
8 that said products were composed of fabric that featured unauthorized print designs  
9 that were identical or substantially similar to the Subject Design, or were an illegal  
10 modification thereof.

11 19. Plaintiff is informed and believes and thereon alleges that Defendants, and  
12 each of them, infringed Plaintiff's copyright by creating, making and/or developing  
13 directly infringing and/or derivative works from Subject Designs and by producing,  
14 distributing and/or selling Subject Products through a nationwide network of retail  
15 stores, catalogues, and through on-line websites.

16 20. Due to Defendants', and each of their, acts of infringement, Plaintiff has  
17 suffered damages in an amount to be established at trial.

18 21. Due to Defendants', and each of their, acts of copyright infringement as  
19 alleged herein, Defendants, and each of them, have obtained profits they would not  
20 otherwise have realized but for their infringement of Subject Designs. As such,  
21 Plaintiff is entitled to disgorgement of Defendants', and each of their, profits  
22 attributable to the infringement of Subject Designs in an amount to be established at  
23 trial.

24 22. Plaintiff is informed and believes and thereon alleges that Defendants, and  
25 each of them, have committed copyright infringement with actual or constructive  
26 knowledge of Plaintiff's rights such that said acts of copyright infringement were,  
27 and continue to be, willful, intentional and malicious.



**PRAYER FOR RELIEF**

Wherefore, Plaintiff prays for judgment as follows:

- a. That Defendants—each of them—and their respective agents and servants be enjoined from importing, manufacturing, distributing, offering for sale, selling or otherwise trafficking in any product that infringes Plaintiff's copyrights in Subject Designs;
- b. That Plaintiff be awarded all profits of Defendants, and each of them, plus all losses of Plaintiff, the exact sum to be proven at the time of trial, or, if elected before final judgment, statutory damages as available under the Copyright Act, 17 U.S.C. § 101 et seq.;
- c. That Plaintiff be awarded its attorneys' fees as available under the Copyright Act U.S.C. § 101 et seq.;
- d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- e. That Plaintiff be awarded the costs of this action; and
- f. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P. 38 and the 7<sup>th</sup> Amendment to the United States Constitution.

Dated: April 14, 2016

DONIGER/BURROUGHS

By: /s/ Stephen M. Doniger  
Stephen M. Doniger, Esq.  
Frank Gregory Casella, Esq.  
Attorneys for Plaintiff